

**REISSUED OPINION**

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/board.asp](http://www.montgomerycountymd.gov/content/council/boa/board.asp)

**Case No. CBA-969-A**

**PETITION OF MILLENIUM HEALTH SERVICES**

OPINION OF THE BOARD

(Opinion adopted July 13, 2005)

(Effective Date of Opinion: September 27, 2005)

Case No. CBA-969-A is a petition for a modification of a special exception pursuant to Sections 59-G-1.3 and 59-G-2.37 (Nursing Home or Domiciliary Care Home) of the Zoning Ordinance to permit the existing 10.2 x 14.2 foot shed to remain in the eastern section of the property and to increase the number of beds by ten for a total of 100 beds. The Board of Appeals granted Case No. CBA-969 on September 7, 1960, to Drs. Kogan, Sherer and Rosenfeld, pursuant to Section 107-28q(4) of the Montgomery County Zoning Ordinance, permit the use of a nursing home. On August 12, 1969, the Board granted Case No. S-2634 to Bel Pre Medical Center, Inc., pursuant to Section 111-37.1-2 of the Zoning Ordinance to permit the expansion of the nursing home established in Case No. CBA-969.

The Hearing Examiner for Montgomery County initially convened a hearing on the modification on October 2, 2002, held a final hearing on May 10, 2004, closed the record in the case on March 24, 2005, and on June 6, 2005, issued a Report and Recommendation for approval of the modification subject to conditions.

Decision of the Board:

Request for Oral Argument **denied**. Special Exception modification **granted**, subject to the conditions enumerated below.

The subject property is Parcel N670, Bel Pre Estates, located at 2601 Bel Pre Road, Silver Spring, Maryland, in the RE-2 Zone

The Board of Appeals considered the Report and Recommendation, together with a request for Oral Argument from David D. Freishtat, Esquire, the Petitioner's attorney, at its Worksession on July 13, 2005. The Board finds that the report is thorough and exhaustive in both its depiction of the facts and analysis of the issues. Therefore, the Board finds that no additional argument in the case is necessary, and denies the request for oral argument, adopts the Report and Recommendation, and grants the modification subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in this report, and the Board's Opinion.

2. This modification shall not take effect until the submission by the Petitioners and approval by the Board of a revised site plan that provides for:

- (1) No less than 43 on-site parking spaces.
- (2) A two-way drive aisle at least 20 feet wide.
- (3) Striped pedestrian walkways similar to those shown on Exhibit 37(a).
- (4) A reforestation area and area-to-be-left-untended as recommended on page 22 of this report.
- (5) A Category One Conservation Easement over the forested portions of the stream valley buffer, the area to be reforested and the area to be left untended.;
- (6) A Category One Conservation Easement over a 50-foot strip abutting the northern property line.

3. The Petitioners may elect to show these items on a single site plan or on a separate site plan and reforestation/conservation plan. The revised plan(s) shall be submitted to the Hearing Examiner for review and preparation of a supplemental report to the Board regarding whether the plan(s) reflects all of the required revisions and should be approved.

4. The submission required under condition (2) above must be made within 90 days of the Board's Opinion in this matter.

5. The Petitioners must submit building permit applications for the three sheds on the site to the Department of Permitting of Services within 90 days of the Board's Opinion in this matter.

6. The Petitioners must submit, within 90 days of the Board's Opinion in this matter, a list or description of the number of types of rooms on each floor of the facility, including residential rooms and communal rooms, offices, kitchen(s), laundry and maintenance facilities.

7. All current terms and conditions of the approved special exception shall remain in full force and effect, except where specifically amended by this modification.

On a motion by Louise L. Mayer, seconded by Wendell M. Holloway, with Donna L. Barron, Angelo M. Caputo and Allison Ishihara Fultz, Chair in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 27<sup>th</sup> day of September, 2005.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.